-----Original Message-----
From: Fisher, Ronald <FTA>
Sent: Thursday, April 13, 2006 11:27 AM
To: 'Emerson, Donald'
Cc: Ossi, Joseph <FTA>; Libberton, Sean <FTA>; Ryan, James <FTA>
Subject: RE: Conflict between FTA's proposal to initiate scoping prior to PE approval and
provisions of section 6002

I don't think there is a conflict with the FHWA view with the 5-step process because an LPA
has been selected. Their view that you need a project to go into scoping does not allow Option
1 as you point out. Yesterday we looked at the language and it said you must have a "proposed
action" before you can do the NOI. Further a "proposed action" is defined by type of work,
terminus, and general alignment. That definition seems broad enough to allow for an AA/DEIS
study. However, the FHWA definition that it be a design concept and scope is too restrictive
to allow for an AA/DEIS. Joe: should we clarify this with FHWA?

-----Original Message-----
From: Emerson, Donald [mailto:Emerson@pbworld.com]
Sent: Thursday, April 13, 2006 7:54 AM
To: Fisher, Ronald <FTA>
Cc: Ossi, Joseph <FTA>; Libberton, Sean <FTA>
Subject: RE: Conflict between FTA's proposal to initiate scoping prior to PE approval and
provisions of section 6002

RON!!

I attended a FHWA-AASHTO session at TRB in January that covered FHWA's interpretation of
SAFETEA-LU section 6002, which applies to both FHWA and FTA projects that require an EIS. FHWA
explained that the 6002 requirements are "for a project" and do not kick in until a project
has been selected. I heard this to me that the design concept and scope was decided before
6002 requirements apply. FHWA further stated that 6002 requirements are to be met before the
NOI and official NEPA scoping.

If this same interpretation were applied to New Starts, and if your January 19 guidance on
NEPA and New Starts were to go into effect, it would mean the following sequence:

1. AA
2. Selection of LPA
3. Section 6002 requirements
4. NOI and Scoping
5. PE application

The discussion in your proposed New Starts guidance and your listening sessions did not seem
to recognize where 6002 fits into the chronology. There's not necessarily a conflict, but the
FHWA interpretation seems at odds with the idea of doing NEPA Scoping during AA -- i.e.,
Option 1 1/2 -- or a combined AA/DEIS -- i.e., Option 2. (Joe's interpretation of the February
2005 FHWA/FTA guidance on Linking Planning and NEPA, as it would apply in Honolulu, also seems
to deny the utility of Option 1 1/2.) Does FTA share this view? If so, this strikes me as a
significant change in the AA practices dating back to 1978.

The five-step chronology listed above would certainly put off the PE application, which may be
your intent. If this chronology matches your interpretation of 6002, I suggest that this be
spelled out in guidance to the industry.

The FHWA interpretation of 6002 also puts a very different spin on what it means to link
planning and NEPA, and it strikes me that our ongoing LP&N training and the February 2005
guidance need to be revisited in light of SAFETEA-LU. Linking Planning and NEPA is still

relevant, and is addressed in the new environmental requirements in 6001. But the FHWA interpretation of 6002 seems to take the idea of doing NEPA and planning concurrently somewat off the table.

Joe, is this how you see things?

Don

From: Ronald.Fisher@dot.gov [mailto:Ronald.Fisher@dot.gov]
Sent: Wed 4/12/2006 5:57 PM
To: Emerson, Donald
Cc: Joseph.Ossi@dot.gov; Sean.Libberton@dot.gov
Subject: Conflict between FTA's proposal to initiate scoping prior to PE approval and provisions of section 6002

Don,

You mentioned at our APTA meeting that there was a conflict which I did not understand. Was it that the local agency needs a "proposed action" to get permission from FTA to issue a NOI, and you were saying that FTA prevents them from having a proposed action until they have done scoping?

Ron